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STUDENT
ADVOCATE

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Transforming Emotions to Effective Advocacy:

*Understanding the Issues Surrounding
Special Education Rights in the District of
Columbia*



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What is Special Education?

“Special education is instruction that is specially designed to meet the unique needs of children who have disabilities. Special education and related services are provided in public schools at no cost to the parents and can include special instruction in the classroom, at home, in hospitals or institutions, or in other settings.”

The DC Special Education Landscape

- 15% of students in DC receive special education (vs. national average of 13%).
- DCPS enrolls about 8,000 students in special education; charters enroll about 5,000.
- Learning disabilities are the most common disabilities represented.
- Most students in special education spend most of their day in general education.

Overview of DC Special Education Laws

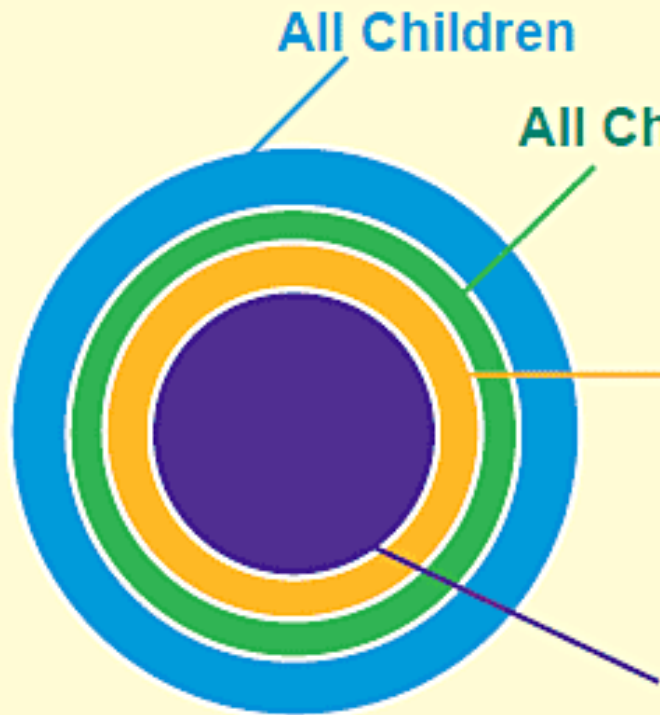
Three federal laws guarantee the rights of students with disabilities:

1. Americans with Disabilities Act (ADA)
2. Section 504 of the Rehabilitation Act ("Section 504") → **504 plan**.
3. Individuals with Disabilities Education Act ("IDEA") → **IEP**.

DC also has local laws and regulations that provide students with additional rights.

Section 504 vs. IDEA

Eligibility for Section 504 and the IDEA



Section 504 – Children with physical or mental impairments that substantially limit a major life function. These children would receive a 504 plan – not an IEP.

IDEA – Children with disabilities that meet at least one of the 14 qualifying disability categories recognized by IDEA, AND who need special education and related services. These children receive an IEP.

Special Education Process

- Child Find
- Evaluation
- Eligibility Determination
- IEP Development
- Placement Determination
- Annual Review
- Re-Evaluation
- Exit/Graduation

Local Rights for Parents & Students

The following rights were passed within the last two years and are now in effect:

- Schools must accept oral referrals for evaluation & document them
- Right to copies of evaluations & draft IEPs 5 business days before meeting
- Right to copies of final IEPs within 5 business days after meeting
- Right to observe child in current placement & observe proposed placement (*can also have someone do this on parent's behalf*)

Guiding terms to know for this discussion

Evaluation

Eligibility

IEP

Evaluation

If a parent is concerned that a child may have a disability and need more support at school, the first step is to request that the school evaluate the child.

The school cannot evaluate the child unless they have the permission of the parent or guardian.

Parents may also provide the school with any documents or information from outside providers (such as doctors or therapists) that help explain the child's needs.

Parents have the right to request an independent evaluation if they disagree with the school's evaluation.

The Evaluation Process

The evaluation must consider all areas of a possible disability. This may include health, vision, hearing, social and emotional well being, general intelligence, performance in school, and how well the child communicates and interacts with others.

Schools must complete the evaluation and determine eligibility within 120 days of when the parent requests it.*

*This timeline will change to 60 days from parental consent in the 2017-2018 school year.

The Process

Who Conducts the Evaluation & How?

Professionals may give your child written tests, observe your child, or talk personally with your child. They will also typically talk to you.

The professionals will try to get a picture of the whole child. For example, they may want to understand:

- how well your child speaks and understands language
- how your child thinks and behaves
- how well your child adapts to changes in their environment
- how well your child has done academically
- how well your child functions in a number of areas, such as moving, thinking, learning, seeing, and hearing
- your child's job-related and other post-school interests and abilities

The tests and interviews must be provided in the language or communication mode that will yield the most accurate results.

The evaluation must be comprehensive and individualized to the child.

Evaluation Example

Maria's parents are worried because she seems withdrawn and rarely turns in her work. Last year, she got A's and B's but this year she's getting D's and F's. The parents ask the school to evaluate Maria.

A psychologist comes to the school to observe her in class and to give her tests to assess her academic abilities and her emotional state. The psychologist finds that Maria is very bright but has trouble with anxiety and with paying attention. When she observes Maria in class, she sees that when Maria is stuck, she disengages with her work and begins to disrupt the class.

The parent observes classrooms on her own, and notices that Maria is more engaged and less disruptive in the smaller classroom, in which the teacher gives quick positive reinforcement, than in the larger classroom where the teacher does not give positive reinforcement. She notices this because this is exactly what she does at home with her child. The parent also shares that the child does her best work when she is given clear directions, and cannot focus if the directions are unclear to her. The parent also brings in a letter from her child's psychologist explaining that the child requires consistent positive reinforcement due to a negative experience she had with a teacher in kindergarten at a school in another state.

The IEP team compiles all of this information to consider.

Determining Eligibility

After the evaluation has occurred, the IEP Team will meet to discuss the evaluation in an Eligibility Meeting.

At the Eligibility Meeting, the IEP team also reviews all information they have on the child to determine whether the child needs specialized instruction. This can include observations, review of past school work, test scores, teacher and school staff opinions, and the parent or guardian's feelings, concerns, and ideas. This is an opportunity for the parent or guardian to provide any information they feel would be helpful in determining whether the child requires specialized instruction and related services.

The IEP Team consists of:

Parent or guardian, the child's teacher(s), the evaluator, someone from the school with decision-making authority, any relevant therapist or professional (such as an occupational therapist), and others the parent/guardian invites.

The school must provide parents with copies of evaluations 5 business days before the IEP Meeting.

The Evaluation has happened: now what?

Questions the team addresses to determine if the child is eligible for an IEP:

1. Does the child qualify in 1 (or more) of the disability categories recognized by IDEA?
2. Does the child need special education and related services as a result of that disability?

Eligibility – Disability Categories

1. Autism
2. Deaf-blindness
3. Deafness
4. Developmental Delay*
5. Emotional Disturbance
6. Hearing Impairment
7. Intellectual Disability
8. Multiple Disabilities
9. Orthopedic Impairment
10. Other Health Impairment
11. Specific Learning Disability
12. Speech or Language Impairment
13. Traumatic Brain Injury
14. Visual Impairment Including Blindness

* DC recognizes developmental delay only for children 3-7.

Eligibility Example

When the IEP team meets to discuss whether Maria is eligible for special education, the psychologist shares that she has diagnosed Maria with an anxiety disorder and ADHD. The team identifies the categories of “Emotional Disturbance” and “Other Health Impairment” as possibly being categories Maria would qualify for.

They discuss the requirements to fit into those categories and determine that Maria qualifies for both. They determine that she needs special education and related services to be able to achieve in school.

Free Appropriate Public Education

The IDEA guarantees eligible students the right to a Free Appropriate Public Education (FAPE).

For the education provided to meet FAPE requirements, it must be individualized to the student's needs and appropriate to help the student make meaningful progress.

What is an IEP?

An IEP, or Individualized Education Program, is a written document that describes the educational program to meet a child's individual needs.

The IEP has two purposes:

1. Set learning goals for your child.
2. State supports and services that the school district will provide for your child.

Information included in the IEP:

Present levels of academic achievement and functional performance; annual goals, or what the child can reasonably accomplish in a year; special education and related services to be provided; how much of the school day and extracurricular and nonacademic time will be spent with children without disabilities; dates and location of services; participation in state and district-wide assessments and accommodations and modifications; and transition services if your child is 16 or older (14 or older starting in 2016) and how the school will measure progress.

A parent or guardian has the right to refuse services, request changes to the IEP, or call an IEP Meeting.

IEP Example

After the IEP Meeting concludes, the school returns the IEP incorporating changes within 5 business days after the IEP Meeting. Maria's parents review the finalized IEP and follow her throughout the year. The parents come to feel that the IEP may need to be updated to include more time with the counselor. The parent makes the request in writing, and the IEP Team and parent decides whether the change is small enough that it can be incorporated in the IEP without a meeting, or whether a new IEP Meeting needs to be called.

Procedural Safeguards

- IDEA provides an extensive range of procedural safeguards for parents should they believe that there has been a denial of FAPE.
 - [Due Process Complaint](#)
 - [State Complaint](#)
 - [Formal Mediation](#)

As the State Education Agency, the Office of the Superintendent of Education (OSSE) helps ensure that schools do not violate federal and local special education law. Parents may file a complaint with OSSE to initiate an investigation of potential denial of FAPE.

Resources

School System Resources

Office of the State Superintendent of Education – Specialized Instruction

<http://osse.dc.gov/service/specialized-education>

DC Public Schools

<http://dcps.dc.gov/specialeducation>

DCPS Special Education Resources

<http://dcps.dc.gov/page/special-education-resources-parents>

DC Public Charter School Board

<http://www.dcpsb.org/resource-hub>

Other Resources

DC Association for Special Education
<http://dcase.org/>

DC Special Education Cooperative
<http://specialedcoop.org/coop/>

U.S. Department of Education – Parent Resources
www.ed.gov/parents/

Special Education Guide
www.specialeducationguide.com

National Association for Parents with Children in Special Education
www.napcse.org

The following agencies/organizations participated in a panel discussion on special education facilitated by our office. Please feel free to reach out to them or our office with any questions or concerns.

- Office of the Ombudsman for Public Education
 - Joyanna Smith, Ombudsman for Public Education
 - Elizabeth Tossell, Associate Ombudsman for Public Education
 - Website: <http://sboe.dc.gov/ombudsman>
- Advocates for Justice & Education
 - Rochanda Hiligh-Thomas, Director of Legal Services and Advocacy
 - Website: www.aje-dc.org
- Family Voices DC
 - Doreen Hodges, Executive Director
 - Website: www.familyvoicesofdc.org
- Children's Law Center
 - Tracy Goodman, Healthy Together Director
 - Website: <http://childrenslawcenter.org>
- Office of the Student Advocate
 - Faith Gibson Hubbard, Chief Student Advocate
 - Website: <http://sboe.dc.gov/studentadvocate>